

REMARKS

By this Amendment, claims 18-21 have been amended. No new matter has been added. Accordingly, claims 1-14, 18-21 and 23-28 are all the claims pending in the application.

I. Claim Rejections - 35 U.S.C. § 112

Claims 18-21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully requests the Examiner to withdraw these rejections in view of the self-explanatory claim amendments made herein.

II. Claim Rejections - 35 U.S.C. § 102

Claims 1, 2, 6-13, 18-21 and 23-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by Van Dam et al. (US 6,508,988, hereinafter “Van Dam”). Applicants traverse the rejections based on the following comments.

Claim 1 recites:

A cover for a microscope slide, said cover comprising :
a body defining a cavity, for positioning over the microscope slide to form a reaction chamber;
a projection extending from a first end of the body to define **a fluid reservoir** with the microscope slide, the fluid reservoir being in fluid communication with the cavity;
an outlet at a second end of the cover distal from the first end; and
a locator for controlling and locating the cover.

Applicants submit that Van Dam does not disclose a “**a projection** extending from a first end of the body to define **a fluid reservoir** with the microscope slide, the fluid reservoir being in fluid communication with the cavity,” as recited in claim 1. In particular, nowhere in the

disclosure does Van Dam describe a **projection** extending from a first end of the body, the body defining a cavity. In the claim the projection allows fluid to wick into the reservoir.

In addition, Applicants submit that Van Dam does not disclose the claimed **fluid reservoir**, which is defined by the projection according to claim 1. In particular, the fluid reservoir is defined by the projection with the microscope slide, and the fluid reservoir is in fluid communication with the cavity of the body of the cover.

Van Dam discloses flow channels (e.g., channel 104 in figure 7) but does not disclose a reservoir distinct from the channels. Van Dam discloses that a fluid is added to the channel, as described starting on column 12, line 2:

While any appropriate known methods for adding reagents can be used to add reagents to the chemical reaction apparatus of the present invention, a preferred method for adding a reagent into the flow channels of the chemical apparatus device of the present invention having an open end at the edge is to place a standard medical Luer stub (with a size that is larger than the flow channel size) into the flow channel, which typically remains in place by partial adhesion to the elastomer. A tubing or a syringe is then attached to the Luer stub for injection and/or extraction of the fluids into the flow channel.

Luer stubs are used to connect infusion tubing or catheters to syringes or other connectors. In contrast, the claimed invention uses a reservoir fluidly connected to the cavity to achieve this purpose, not separate devices such as syringes. For example, according to an exemplary, non-limiting embodiment of the present disclosure, a syringe pump is used to deposit fluid into the fluid reservoir, thus showing a clear difference between the features of the cover of claim 1, which includes a reservoir for holding fluid, and the device of Van Dam which **requires additional connectors** to hold or transfer fluid to the channels for reaction. Thus, it can be seen

that rather than a reservoir incorporated into the cover, additional elements must be added in Van Dam.

Moreover, the reservoir of claim 1 is formed by a projection of the cover. Accordingly, there are substantial differences between the reservoir of claim 1 and adding a luer stub, syringe and/or tubing to the Van Dam device

In view of the above, Applicants submit that Van Dam does not disclose or fairly suggest “a **projection** extending from a first end of the body to define a **fluid reservoir** with the microscope slide, the fluid reservoir being in fluid communication with the cavity,” as recited in claim 1. Accordingly, Applicants submit that claim 1 is patentable for at least this reason.

Applicants note that according to the MPEP, the goal of examination is to clearly articulate any rejection early in the prosecution process so that the Applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. MPEP 706 The particular part relied on must be designated as nearly as practicable. MPEP 706.07(a). The rejection does not meet this burden, and is therefore improper.

For example, the rejection merely cites a large portion of Van Dam, which does not designate the part relied on as nearly as possible. Furthermore, although the rejection lists particular elements of the Van Dam reference, it is not clear which elements of the reference correspond to the specific features of the present application, or how the Examiner is interpreting the claims in view of the applied references. Accordingly, although Applicants have reviewed the entire reference, and submit that Van Dam does not disclose at least the above features, it is still extremely difficult to determine the Examiner's position. Accordingly, Applicants request,

if another Office Action is issued, that it be made **non-final** such that Applicants have a fair opportunity to address the rejections.

Applicants submit that the remaining claims are patentable at least by virtue of their dependency on claim 1.

III. Claim Rejections - 35 U.S.C. §103

Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Dam et al. (US 6,508,988). The Examiner asserts that the difference between Van Dam and claims 4 and 5 is one of relative dimensions (i.e., the channel angle relative to the cavity). However, the channels of Van Dam do not correspond to the claimed reservoir or projection. Thus, even if the channels were arranged to have a similar dimension, there is no teaching that they would form a reservoir or a projection. Therefore, Applicants submit that the Examiner's assertions do not make up for the deficiencies of Van Dam with respect to claims 4 and 5.

Applicants submit that claims 4 and 5 are patentable because Van Dam does not teach or fairly suggest that “the reservoir is defined by a first section, angled at least at substantially 60° relative to the cavity, and a second section, positioned between the cavity and the first section, and orientated at a reduced angle relative to the cavity, as compared to the first section,” as recited in claim 4, or that “the second section is angled at least at substantially 15°,” as recited in claim 5.

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Dam et al. (US 6,508,988) in view of Pfof et al. (US 6,485,690).

Pfof teaches that wicking is performed in relation to **emptying** small reaction chambers. In contrast, according to claim 3, a protrusion extends from the projection, to assist in wicking

fluid **into** the reservoir. Accordingly, Pfof does not make up for the deficiency of Van Dam with respect to claim 3. Applicants submit that claim 3 is patentable for at least this reason.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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